Town of



AMHERST

Massachusetts

TOWN HALL 4 Boltwood Avenue Amherst, MA 01002-2351 ZONING BOARD OF APPEALS (413) 259-3040 (413) 259-2410 fax Planning@amherstma.gov

June 10, 2014

Joel Greenbaum 87 Linden Ridge Road Amherst, MA 01002

Dear Mr. Greenbaum,

Enclosed please find the following documents in regard to Special Permit ZBA FY 2014-00019:

- 1. Zoning Permit with Conditions;
- 2. Copy of Decision & Approved Plans;
- 3. Copy of Notice of Special Permit;
- 4. Copy of Record of Appeal and Decision Rendered;
- 5. Copy of certified list of abutters;
- 6. Proof of Filing, for Hampshire County Registry of Deeds.

The above-listed documents were filed with the Amherst Town Clerk on June 5, 2014. Pursuant to Massachusetts General Laws, Chapter 40A, Section II, a 20-day appeal period begins the day after the Decision has been filed.

After this appeal period expires, you, the applicant or owner, must complete the application process before the Permit will take effect, as follows:

- 1. After the 20-day appeal period, which expires at the end of the day on June 25, 2014, you must acquire a "Certificate of No Appeal" from the Amherst Town Clerk certifying that no appeal of this Decision has been filed. A \$10.00 fee is charged for this service. If an appeal has been filed, you must wait until after it has been denied or dismissed before receiving appropriate certification.
- 2. After you obtain the "Certificate of No Appeal", you must record it and the enclosed documents at the Hampshire County Registry of Deeds in Northampton.

There will be a recording fee and you must return the Proof of Filing to the Planning Department.

If you have any questions, please do not hesitate to contact this office at 259-3040.

Sincerely, Jeffrey R. Bagg Senior Planner

Town of Amherst Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2014-00019, to modify condition #3 of ZBA FY1985-50 to allow changes to the approved parking plan and to allow six cars in the front setback, at 8 Grove Street (Map 11D, Parcel 182, R-G Zoning District), with the following conditions:

- 1. The parking arrangement and site improvements shall be substantially in accordance with the plan, prepared by the Amherst Department of Public Works, dated April 1, 2014, including but not limited to the following:
 - a. Parking spaces # 3 and #4 shall be 10 feet wide to aid in maneuverability.
 - b. The landscaped island shall be minimally landscaped with grass; any other vegetation shall be appropriate so as to not obstruct the view of cars entering or exiting.
 - c. All spaces shall be painted with white striping.
 - d. The applicant shall work with the DPW to coordinate the relocation of the Public Shade Tree.
 - e. All site improvements shall be completed by July 1, 2014.
- 2. There shall be no more than six vehicles parked on or adjacent to the property on a regular basis.
- 3. The exterior flood lights shall be on a motion sensor and downcast to prevent spillage onto adjacent properties.
- 4. All other relevant conditions of ZBA FY1985-50 shall remain in effect.

Tom Ehrgood, Acting Chair

Amherst Zoning Board of Appeals

6/5/14

Town of Amherst Zoning Board of Appeals - Special Permit

DECISION

Applicant/Owner:

Joel Greenbaum, 87 Lindenridge Road, Amherst, MA 01002

Date application filed with the Town Clerk:

January 13, 2014

Nature of request:

For a Special Permit to modify condition # 3 of ZBA FY1985-50 to allow changes to the approved parking plan and formalize the expansion from six

to eight parking spaces

Address:

8 Grove Street (Map 11D, Parcel 182, R-G Zoning District)

Legal notice:

Published on February 19, 2014 and February 26, 2014 in the Daily Hampshire

Gazette and sent to abutters on February 18, 2014

Board members:

Tom Ehrgood, Mark Parent, Carolyn Holstein

Staff members:

Jeff Bagg, Senior Planner, Rob Morra, Building Commissioner

Submissions:

Application form filed with the Town Clerk on January 13, 2014

Parking Plan submitted with Rental Permit application

Four existing condition photographs

ZBA FY1985-50, with approved plans

Town Engineer letter, dated February 27, 2014

Site Visit:

March 4, 2014

Tom Ehrgood, Mark Parent, and Carolyn Holstein met the applicant onsite, and observed the following:

The location of the property along the north side of Grove Street.

The existing paved area of approximately 40 feet wide and 35 feet in depth capable of parking eight cars.

Public Hearing: March 5, 2014

Mr. Ehrgood introduced the petition noting that it is related to Rental Permit process and that the primary purpose of the application is to bring certain things into conformance, and therefore is more limited in scope. The report from staff focuses on the specific issues and/or zoning bylaw. The applicant, Joel Greenbaum, is seeking to modify condition #3 of ZBA FY1985-50 to allow changes to the approved parking plan and to formalize the expansion from six parking spaces to eight parking spaces.

Mr. Greenbaum requested that the hearing be continued to allow him additional time to respond to the Town Engineer's letter. He explained that yesterday he was informed that the DPW would not accept any proposal that did not reduce the driveway curb cut width to 18 feet.

Mr. Greenbaum stated that he wants time to explore options, but that he intends to remove the recently expanded paved area and revert back to the plan approved in the 1985 Special Permit.

The following member of the public spoke:

James O'Sullivan, 18 Grove Street, asked for clarification as to whether the applicant was going to be providing six or eight parking spaces.

Mr. Bagg explained that in 1985 a Special Permit was granted for a parking area for six vehicles which was 29 feet wide by 35 feet in depth. In 2013, the parking area was expanded to provide parking for eight vehicles and was now 40 feet wide by 36 feet in depth.

Ms. Holstein MOVED to continue the public hearing to April 16, 2014 at 6:15 p.m. Mr. Parent SECONDED the motion and the Board voted unanimously to continue the hearing.

Public Hearing: April 16, 2014

The following new information was provided:

"Proposed Parking Plan", dated April 1, 2014

Planning Department memorandum, dated April 9, 2014

The applicant, Joel Greenbaum, was accompanied by his attorney, Alan Seewald of Seewald, Jankowski and Spencer. Mr. Seewald stated the following:

- In 1985 the previous owner was granted a Special Permit with an approved parking plan showing six parking spaces stacked three over three all occurring within the front setback.
- The applicant expanded the parking in 2013 to add two additional spaces without knowing a Special Permit was required. He explained that after a warning from the Code Enforcement Officer about vehicles parking on the lawn, he sought to improve the situation by adding additional paving. The expanded parking area resulted in the creation of eight parking spaces.
- After submitting the application to formalize the expanded parking area and increase from six to eight spaces, the Town Engineer issued a review letter indicating that the parking area would need to be reduced from the current 40 feet of access from the paved area of Grove Street to 24 feet. The letter cites concern with vehicles parking in the right of way as it relates to possible conflicts with snow removal.
- After a meeting with the Town Engineer and the applicant, the matter remained unresolved, which was the basis for the request to continue the March 5th hearing. During the meeting it was established that vehicles parked in the right of way could be subject to towing by the DPW.
- After consultations with the Director of the Department of Public Works, Guilford Mooring, a revised parking plan was provided to the applicant by the DPW. The applicant now seeks approval from the ZBA for this plan, dated April 1, 2014.
- The revised plan shows six spaces adjacent to, but not within right of way for Grove Street. The plan does not create any new non-conforming spaces, but rather reconfigures the six previously approved spaces in a way that is safer and more compliant with the intent of the Zoning Bylaw. Mr. Bagg stated that the 1985 Special Permit and parking plan were approved without knowing where the property line was and therefore provided only three parking spaces on the subject property; the ZBA does not have authority to approve parking in the right of way. Mr. Seewald asserted that the parking of six vehicles has been in existence since 1985 and it is only now that the DPW is establishing their concern and interest in towing vehicles parked in the right of way.

Mr. Bagg stated that the Planning Department memorandum dated April 9, 2014 asserts that the plan is not necessarily the only option and identifies the necessary waivers or modifications required to approve the April 1, 2014 plan. Mr. Seewald stated that the proposed parking plan is the best resolution and has the support of the DPW, but if the ZBA doesn't approve it, the applicant will simply remove the expanded area and revert back to the six spaces approved in the 1985 plan.

The Board discussed whether the proposed plan was an extension of a non-conformity. Mr. Morra stated that the only part of the 1985 approved plan that is non-conforming would be the number of cars in the front setback, noting that the Zoning Bylaw only permits two cars in the front setback, where six were approved.

The Board discussed the proposed plan. The Board determined that the configuration showing two back-to-back curb cuts is supported by the DPW and that other alternatives, such as adding another parking area on High Street; or requiring all parking to be on the subject property and out of the front setback, would be more detrimental to the neighborhood.

Findings.

The Board found under Section 9.22, the following:

9.22 - The Special Permit Granting Authority authorized to act under the provisions of Section 3.3 of this bylaw may, under a Special Permit, allow a non-conforming use of a building, structure or land to be changed to a specified use not substantially different in character or in its effect on the neighborhood or on property in the vicinity. Said Authority may also authorize, under a Special Permit, a non-conforming use of a building, structure, or land to be extended, or a non-conforming building to be structurally altered, enlarged or reconstructed; provided that the Authority finds that such alteration, enlargement, or reconstruction shall not be substantially more detrimental to the neighborhood than the existing non-conforming use or non-conforming building. The Board found that increasing from three legal parking spaces in the front setback to six parking spaces in the front setback is not substantially more detrimental to the neighborhood. The Board determined that six cars have been parked on the property since 1985 and any alternative to limit the number of cars in the front setback to two cars would either: 1) result in a significant area of the side yard being taken out of grass and converted to parking, or 2) create an inconvenient and extra parking area with three vehicles on High Street. Both scenarios would be more detrimental to the neighborhood than the proposed six cars in the front setback.

The following requirements under Article 7 appear to be met:

7.0000 - Two (2) parking spaces for each dwelling unit. For two dwelling units, a minimum of four

spaces is required. The proposal provides six spaces.

7.0001 and 7.101 — Parking spaces for cars or similar vehicles shall be on a paved surface such as concrete, bituminous asphalt, masonry pavers, oil and stone, gravel, trap rock, or a similar material (see Section 7.101); Paving: For the purposes of this bylaw, a paved parking surface shall be considered to be one which has a prepared subgrade and compacted gravel base with a minimum total 12 inch depth, appropriate grading and drainage, and which is surfaced with a minimum 2 inch top coat of concrete, asphalt, masonry pavers, oil and stone, gravel, trap rock, or similar material, as approved or modified by the Town Engineer. To the extent feasible, permeable or porous paving shall be employed in new construction or site renovations or improvements. The reconfigured parking area will consist of bituminous asphalt constructed in accordance with Section 7.101.

7.0002- In any residential district, there shall be a maximum of two (2) cars or similar vehicles allowed to be parked in the front setback of any property. Parking in the front setback shall be on paved surfaces only. Where five (5) or more cars are regularly parked on a given property in association with a residential use, parking in the front setback shall be designed so as to ensure free passage at all times for regular users and unrestricted access for emergency vehicles.

Under the provisions of Section 7.90, the Board waived this requirement to allow a total of six cars

in the front setback for the following reasons of safety, aesthetic or site design:

Site design — The plan satisfies the requirements of the Department of Public Works and provides the same number of parking spaces approved in 1985 while not substantially impacting the neighborhood. The alternatives would have substantially changed the character and effect of the parking on the property.

Safety – The plan provides for safer vehicular movement out of the site by reducing stacked parking. The plan provides for emergency vehicular access; in addition, Grove Street is not a

heavily travelled street where backing out into traffic may be a concern.

Aesthetics - The plan maintains the same number of parking spaces as originally approved and

does not require substantial relocation of parking to other areas on the property.

7.104- Dimensions, Marking & Delineation - The area of all parking areas shall be included in the calculation of maximum lot coverage. Based on a review of the Town's GIS information, the proposed plan depicts an approximately 23% lot coverage where a maximum of 40% is allowed.

Parking areas shall be clearly delineated and shall be provided with a permanent dust-free surface and adequate drainage. The proposal involves using bituminous asphalt, which the Board finds is

suitable to delineate the edge of parking from grass areas.

Each parking space shall be at least 9 feet x 18 feet in size, and all parking areas must have adequate access and maneuvering areas. The proposed site plan provides six spaces. Because of the DPW's requirement for two 24 foot wide curb cuts, spaces #3 and #4 on the site plan are required to be 10 feet wide to aid in maneuverability and exiting from those spaces.

In all parking areas of five (5) or more parking spaces, individual spaces shall be painted, marked or otherwise delineated in a manner sufficient to visibly identify said spaces. The Board found that

the six spaces should be delineated by white painted stripes.

7.105- Lighting: adequate lighting shall be provided for all parking areas of 5 spaces or more if these areas are to be used at night. All exterior site lighting associated with parking areas shall be downcast and shall be directed or shielded to eliminate light trespass onto any street or abutting property and to eliminate direct or reflected glare perceptible to persons on any street or abutting property and sufficient to reduce a viewer's ability to see. The Board found the existing double floor light on the corner of the building is sufficient. A condition of the permit requires that the lights be on a motion sensor and downcast.

7.112 - Screening: parking areas with 5 or more spaces shall provide effective screening of the parking area from adjacent streets or properties. Such screening may be accomplished by: depressions in grade 3 feet or more; a hedge or wall; or any type of appropriate natural or artificial permanent division. Any required screening barrier shall not be less than 3 feet high.

Screening shall not be located to obstruct driver visions so as to impair safety at intersections or driveway entrances or exits. The Board found that due to the topography of the property and the location of the parking away from the habitable portion of the adjacent dwelling, no additional screening is required.

The Board found under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority; The proposal is compatible with existing Uses and other Uses permitted by right in the same District.

The permit grants approval for a total of six parking spaces. Although the 1985 Special Permit may have been flawed, the result was six cars parked in this location on Grove Street for nearly 30 years. The board finds that the reconfiguration of the six spaces in the front setback is more compliant with the Zoning Bylaw.

10.383 & 10.387 - The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians; The proposal provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements. The Board finds that granted approval for six cars in the front setback that will back onto the street will not be a hazard to abutters, vehicles, or pedestrians. The Board cited the quiet nature of Grove Street in finding that backing out will provide safe vehicular and pedestrian movements.

10.386 - The proposal ensures that it is in conformance with the Parking and Sign regulations (Articles 7 and 8, respectively) of this Bylaw. The proposal provides a total of six parking spaces for the two family dwelling where a minimum of four are required. The Board noted that when the parking area was expanded in 2013, it provided parking for eight vehicles. The Board acknowledged that since the applicant has reduced the total number of cars parked on the property to six, this will require extra management of parking or consideration of this fact when renting the units.

<u>10.398</u>- The proposal is in harmony with the general purpose and intent of this Bylaw, and the goals of the Master Plan. The proposal provides for six parking spaces located on the subject property. The location of the six spaces in the front setback will not be substantially different or have more impact on the neighborhood than the existing condition.

Ms. Holstein MOVED to close the evidentiary portion of the public hearing. Mr. Parent SECONDED the motion and the Board voted unanimously to close the hearing.

Zoning Board Decision

Ms. Holstein MOVED to approve the application with conditions. Mr. Ehrgood seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2014-00019, to modify condition #3 of ZBA FY1985-50 to allow changes to the approved parking plan and to allow six cars in the front setback, at 8 Grove Street (Map 11D, Parcel 182, R-G Zoning District), with conditions.

Tom Ehrgood M. TOM EHRGOOD (B) M.	ark Parent (19)	CAROLAN HOLSTEIN
in the office of the Amherst Town TWENTY-DAY APPEAL period NOTICE OF DECISION mailed to	expires, June 25th // his 5th day of June	2:42 p.m
to the attached list of addresses by COPY OF NO APPEAL issued th		, 101 the Board.
NOTICE OF PERMIT or Variance		, 2014,
in the Hampshire County Registry	of Deeds.	

THE COMMONWEALTH OF MASSACHUSETTS **AMHERST**

City or Town NOTICE OF SPECIAL PERMIT

(Gener	Special ral Laws	Permit Chapter 40)A)		
Notice is hereby given that a Special Perr To <u>Joel Greenbaum</u> Address <u>87 Lindenridge Road</u> City or Town <u>Amherst, MA 01002</u>		en granted			
Identify Land Affected: 8 Grove S (Map 11D,		82, R-G Zor	ning Distr	ict)	
By the Town of Amherst Zoning B with respect to the use of the premis		Appeals affe	ecting the	rights	of the owner
8 Grove Street	ē	Amherst			
Street		City or Town			
The record of title standing in the na Joel and Lisa Greenb	me of	,			
Name of Owner				3.54	01000
Whose address is PO Box 3065		Amherst			01002
Street		City or Town		State	Zip Code
By a deed duly recorded in the Hampshire County Registry of De Hampshire Registry District of the Book, Page The decision of said Board is on file In the office of the Town Cle	e Land C	or Court, Certif e papers, in _	icate No.	 Y2014	-00019_
 :					
Certified thisday of					-
	of Appea				*
	Ion E	traoval	(10)	C	Chairman
	(Board of A Mayle (Board of A	Parent	D	(Clerk
Received and entered with the Regis	ster of De	'clock and _ eeds in the C	county of		tesm. hire
ATTE	ST				

Register of Deeds Notice to be recorded by Land Owner

BOARD OF APPEALS AMHERST, MASSACHUSETTS RECORD OF APPEALS AND DECISION RENDERED

Petition of Joel Greenbaum

For A Special Permit to modify condition #3 of ZBA FY1985-50 to allow changes to the approved parking plan and formalize the expansion from six to eight parking spaces

t or on	Map 11D, Parcel 182, R-G 2	
OTICE o	f hearing as follows mailed (date)_	February 18, 2014
	list of addresses and published in _	the Daily Hampshire Gazette
ated	February 19, 2014 and February	26, 2014

The Amhrest Zoning Board of Appeals will meat on Wednesday, March 5, 2014; at 6:30 P.M. in the First Floor Meeting Board of Debug Board of Appeals will meat on Town Hall, to conduct the following business:
Divinging busing District)
Divinging Board of Appeals
February 19, 26

SITTING BOARD and VOTE TAKEN:

To grant a Special Permit, ZBA FY2014-00019, to modify condition # 3 of ZBA FY1985-50 to allow changes to the approved parking plan and to allow six cars in the front setback.

Tom Ehrgood – Yes

Mark Parent – Yes

Carolyn Holstein- Yes

DECISION: APPROVED with conditions



11D-196 DRAKE, CHARLES A & DORIS R 24 CANTON AVE AMHERST, MA 01002

11D-185 DRAKE, CHARLES & DORIS (LIFE ESTATE) DRAKE, DAVID FRANCIS & ET AL 24 CANTON AVE AMHERST, MA 01002

11D-147 LALONDE, PAUL G. LALONDE, TINA C. 12 CLIFTON AVE AMHERST, MA 01002

11D-228 THE GREEN TREE FAMILY LTD PARTNERSHIP P.O BOX 9625 NORTH AMHERST, MA 01004

11D-176 ROSS, DAVID S & MYRA 34 HARVARD AVE AMHERST, MA 01002

11D-144 WEYL, NINA 103 HIGH ST AMHERST, MA 01002

11D-141 POPE, CAROL C 119 HIGH ST AMHERST, MA 01002

14B-98 SHUMWAY, JANICE A P.O. BOX 745 AMHERST, MA 01004-0745

11D-5-264 HISTORICAL ENTERPRISES LLC P O BOX 9625 Amherst, MA 01002

11D-2-264 HISTORICAL ENTERPRISES LLC P O BOX 9625 NO AMHERST, MA 01059 11D-184 CLEVELAND, DOROTHY LIFE ESTATE CLEVELAND, BRUCE E PO BOX 2367 AMHERST, MA 01004-2367

11D-186 FRASIER, STEPHEN JAMES 34 CANTON AVE Amherst, MA 01002

11D-148 WATT, TIMOTHY I & GAIGE, AMITY W 20 CLIFTON AVE AMHERST, MA 01002

11D-181 SULLIVAN-FLYNN, JASON & HEATHER 18 GROVE ST AMHERST, MA 01002

11D-214 HART, DANIEL D 45 HARVARD AVE Amherst, MA 01002

11D-143 TARR, GARY & LYSTER, CARLIE C C/O CARLIE & GARY TARTAKOV 109 HIGH ST AMHERST, MA 01002

11D-140 PREMILA NAIR 129 HIGH ST AMHERST, MA 01002

11D-6-264 HISTORICAL ENTERPRISES LLC P.O. BOX 9625 NO AMHERST, MA 01059

11D-7-264 HISTORICAL ENTERPRISES LLC P O BOX 9625 NO AMHERST, MA 01059

11D-1-264 HISTORICAL ENTERPRISES LLC P O BOX 9625 NO AMHERST, MA 01059 11D-195 CLARK, PAULINE E 3079 CHESTNUT ST RIVERSIDE, CA 92501

11D-146 ERIKSEN, TIMOTHY & MAGDALENA ZAPEDOWSKA 8 CLIFTON AVE AMHERST, MA 01002

11D-182 GREENBAUM, JOEL & LISA P.O. BOX 3065 AMHERST, MA 01004-3065

11D-153 DOWD, KIMBERLY A C/O EAGLE CREST PROPERTY MNGMT 55 NORTH PLEASANT ST AMHERST, MA 01002

11D-188 LUCIEN, CAROLYN M HART& LEONARD JR 46 HARVARD AVE Amherst, MA 01002

11D-142 DICKINSON, CHARLES & ELLEN S 115 HIGH ST AMHERST, MA 01002

14B-93 GARCIA, MARIAELENA 74 NORTH WHITNEY ST AMHERST, MA 01002

11D-3-264 HISTORICAL ENTERPRISES LLC P O BOX 9625 NO AMHERST, MA 01059

11D-8-264 HISTORICAL ENTERPRISES LLC P O BOX 9625 NO AMHERST, MA 01056

11D-4-264 HISTORICAL ENTERPRISES LLC P O BOX 9625 NO AMHERST, MA 01059



label size 1" x 2 5/8" compatible with Avery ®5160/8 60

label size 1" x 2 5/8" compatible with Avery ©5160/8160 Étiquette de format 25 mm x 67 mm compatible avec Avery ©5160/8160



11D-183 THE GREEN TREE FAMILY LTD PART P.O. BOX 9625 NORTH AMHERST, MA 01004

11D-150 WALDRON FAMILY TRUST C/O KENDRICK PROP MNGMT 1185 NORTH PLEASANT ST AMHERST, MA 01002

11D-179 JOY, ROBERT J & JEAN E 207 SNELL ST AMHERST, MA 01002

11D-177 STAPLETON, WILLIAM T & ELIZABETH H 133 NORTH WHITNEY ST Amherst, MA 01002 11D-200 NEWCOMB, ROBERT S. WILLIAMS-NEWCOMB, JUDITH 87 NORTH WHITNEY ST AMHERST, MA 01002

11D-180 REFFSIN, DAVID & NANCY 117 NORTH WHITNEY ST AMHERST, MA 01002

11D-152 LA COUR, NIELS PIERRE & SARAH COLLINS 124 NORTH WHITNEY ST AMHERST, MA 01002 11D-149 WALKER, MARIAN N & HARRIS, STEPHEN J 106 NORTH WHITNEY ST AMHERST, MA 01002

11D-151 CLEVENGER, DAVID & CLEVENGER, PAUL 118 NORTH WHITNEY ST AMHERST, MA 01002

11D-178 BAK, JOHN J JR & MARION C 125 NORTH WHITNEY ST AMHERST, MA 01002



